IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12011 of 2004

Between:

Sri Satyasai Inland Fishermen Cooperative Society Ltd,

Pakeeruvani Kittali, Gorla Mandal,
Vizianagaram District, rep. by its President Reddy Ramu Naidu.

..... PETITIONER

AND

1 The Superintendent of Police, Vizianagaram District, Vizianagaram.
2 The Station House Officer, Gorla Police Station, Vizianagaram District.
3 The Sub Divisional Police Officer, Vizianagaram , Vizianagaram District.
4 The Assistant Director of Fisheries, Vizianagaram District, Vizianagaram .

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 3 in not taking any action on the complaint lodged by the petitioner society against Burle Tammanna, erstwhile President of the petitioner society as highly illegal arbitrary and unjust and consequently direct the respondents 1 to 3 to take immediate action on the complaint lodged by the petitioner society in terms of the letter Rc.No. 7/A/03 dated 10-2-2004 of the 4th respondent

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: GP FOR HOME

GP for Fisheries.

The Court made the following :

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O R D E R:

This writ petition is filed seeking a declaration that the action of the respondents 1 to 3 in not taking any action on the complaint lodged by the petitioner-society against one Burle Tammanna erstwhile President of the petitioner-society as illegal and arbitrary.

In the affidavit filed in support of the writ petition it is stated that One Burle Tammanna was the President of the Managing Committee of petitioner-society which is a registered society under the A.P.
Co-operative Societies Act, 1964 (for short 'the Act'). The term of the said committee expired in the month of September, 2003. Thereafter official person-in-charge was appointed under Section 32(7) of the Act. It is alleged that at that juncture, the said Burle Tammanna absconded from the village without handing over the concerned record to the official person-in-charge. Under the said circumstances the official person-in- charge lodged a complaint with the 2nd respondent to take action against the ex-president of the society. It is also stated that on 06-05-2004 election was conducted and thereafter the elected body took charge of the affairs of the society. However, since no records are made available the society could not get its accounts audited. Therefore, the 4th respondent, who is the functional registrar addressed a letter to the 3rd respondent by marking copies to the 1st and 2nd respondents requesting to take action against the erstwhile President of the society and to recover the records from him. But the 1st and 2nd respondents failed to take any action. It is alleged that the respondents 1 to 3 have not even registered any FIR though the said Thammanna is very much available in the village. The 4th respondent also addressed a

letter in Rc.No. 7/A/03,dated 10-02-2004 to the 3rd respondent to take action against the elsewhere President. But there was no response. Hence this writ petition.

On behalf of the respondents 1 to 3, a counter affidavit has been filed by the S.I. of Police Gurla Police Station, Vizianagaram District, who is the 2nd respondent herein stating that the election to the petitioner-society was conducted on 06-05-2004 and in that connection the 4th respondent addressed a letter dated 04-05-2004 requesting to provide necessary police protection for the purpose of the elections and accordingly they provided police protection. So far as the question of recovery of record from the ex-president of the petitioner-society is concerned, it is stated that no such complaint was ever made before the 2nd respondent by the person-in-charge of the petitioner-society. It is also stated that the 4th respondent addressed a letter dated 10-02-2004 to the then Deputy Superintendent of Police, Vizianagaram to recover the records of the society from the ex-president. As the matter relates to civil nature, no action was taken by the police in this regard. It is also stated that since the election of the society has already been conducted on 06-05-2004 and in case the records of the petitioner-society were not handed over to the elected office bearer, it is open to them to approach the competent civil court for the same.

The version of the 2nd respondent in the counter-affidavit that no complaint was received by them from the person-in-charge of the petitioner-society has been denied by the petitioner. In the reply affidavit dated 22-08-2004 it has been stated that the complaint made by the petitioner on 06-02-2004 was received by the 2nd respondent Gurlal Police Station, Vizianagaram District on the same day.

Heard thelearned counsel for both parties and perused the material on record.

Though the learned counsel for the petitioner contended that the petitioner made a representation before the 1st respondent-Superintendent of Police complaining the alleged inaction on the part of the 2nd respondent nothing has been placed before this court to substantiate the same. The letter addressed by the Assistant Director of Fisheries, who is the functional registrar on 10-02-2004 does not refer to the complaint made by the petitioner-society on 06-02-2004 or the subsequent representation. In view of the specific denial by the respondents this court cannot go investigate into the rival claims made by the parties and no finding as such can be recorded whether the petitioner lodged a complaint on 06-02-2004. However, even assuming that the petitioner-society lodged a complaint on 06-

02-2004 and that the 2nd respondent failed to take any action. It is to be noted that under Section 154(3) of Cr.P.C. it is always open to the petitioner society to send the substance of such complaint by post, to the Superintendent of police concerned, who, if satisfied that such information discloses commission of a cognizable office, shall either investigate the case himself or direct an investigation to be made by any officer subordinate to him.

Accordingly, without expressing any opinion on merits, the writ petition is disposed of granting leave and liberty to the petitioner-society to work out the appropriate remedy as available under law.

The Writ Petition is accordingly disposed of. No costs.

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07-09-2004.

Mjl/*

1. The Superintendent of Police, Vizianagaram District, Vizianagaram.
2 The Station House Officer, Gorla Police Station, Vizianagaram District.
3 The Sub Divisional Police Station, Vizianagaram , Vizianagaram District.
4 The Assistant Director of Fisheries, Vizianagaram District, Vizianagaram .
5. 2 CCs to G.P. for Home, High Court Buildings, High Court, A P. Hyderabad.
6. 2 CCs to G.P. for Home/Fisheries, High Court Buildings, Hyderabad (OUT)
7. 2 CD copies.